

Message Text

LIMITED OFFICIAL USE

PAGE 01 GUATEM 02689 01 OF 02 070631Z

12

ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 CIAE-00 COME-00 DODE-00 DOTE-00

FMC-01 INR-07 NSAE-00 SAL-01 CG-00 DLOS-04 OES-06 L-03

STR-04 IGA-02 AID-05 TRSE-00 XMB-02 H-02 /051 W

----- 087033

R 061440Z APR 76

FM AMEMBASSY GUATEMALA

TO SECSTATE WASHDC 1136

LIMITED OFFICIAL USE SECTION 1 OF 2 GUATEMALA 2689

E.O. 11652: N/A

TAGS: EWWT, GT

SUBJ: SHIPPING DISCRIMINATION: CALL IN CONGRESS FOR ANNULMENT OF
DECREE 41-71

REF: A. GUATEMALA 2276, B. GUATEMALA 2687 C. GUATEMALA 2688

SUMMARY: BILL HAS BEEN PRESENTED IN CONGRESS BY MLN
REPRESENTATIVE TO ANNUL DECREE 41-71 AND IMPOSE NON-
DISCRIMINATORY MARITIME TAX. LATTER DIFFERENCE FROM WHAT
HAD BEEN UNDER CONSIDERATION IN GOG MAINLY IN THAT PROCEEDS
WOULD GO 75 PERCENT FOR EARTHQUAKE RECONSTRUCTION PURPOSES, ONLY
25 PERCENT TO DEVELOP FLOMERCA. BILL ACTUALLY CREATE OF CHAMBER
OF COMMERCE REPRESENTATIVE, LONG AN OPPONENT OF DECREE 41-17
AND PROPONENT OF ACROSS-THE-BOARD MARITIME TAX. THOUGH HE
HOPEFUL OF WIDE POLITICAL SUPPORT FOR BILL, POSITION OF GOG
NOT CLEAR AND OPPOSITION COULD ARISE FROM VARIOUS OTHER
SOURCES. CALL FOR ANNULMENT DECREE 41-71 ALSO MADE BY PRI-
VATE GUATEMALAN SHIPPING LIN IN SUGGESTION TO CONGRESS, BUT
PROPOSAL AS YET HAS NO STANDING THERE. END SUMMARY.

1. SINCE LAST STATUS REPORT (REF A), EXECUTIVE BRANCH
GOG HAS MADE NO OVERT DISCERNIBLE STEPS TO MOVE TOWARDS
REFORM OF DISCRIMINATORY SHIPPING REGIME. IN MEMO
FROM MINISTER ECONOMY ENCLOSED WITH LAUGERUD LETTER TO
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 GUATEM 02689 01 OF 02 070631Z

PRESIDENT FORD, IT WAS SAID THAT "IN DUE COURSE, WITH-

OUT PRESSURE, THE CONGRESS WILL PROPOSED LEGISLATION" ON CHANGES IN SHIPPING REGIME. SINCE THEN TWO CALLS HAVE BEEN MADE IN CONGRESS FOR ANNULMENT OF DECREE 41-71, NEITHER OF THEM BY EXECUTIVE BRANCH.

2. THE FIRST, DATED MARCH 15, 1975, WAS A PRESENTATION TO PRESIDENT OF CONGRESS BY THE PRIVATE-SECTOR LINE ARMAGUA TO ANNUL DECREE 41-17 AND INSTITUTE CARGO SHARING ARRANGEMENT ENSHRINED IN UNCTAD CONVENTION OF CODE OF CONDUCT FOR LINER CONFERENCE - SEE REF B. THIS PRESENTATION POINTED OUT THAT DECREE WAS OPPOSED BY CHAMBERS OF COMMERCE AND INDUSTRY (MORE FORMER THAN LATTER) AND BY LOCAL REPRESENTATIVES OF FOREIGN LINES; FURTHERMORE, THAT DECREE 41-71 "CAN BE MISINTERPRETED INTERNATIONALLY AS A DISCRIMINATORY LAW". AS REPORTED REF B, DRAFT PROPOSAL HAS NO STANDING UNTIL FORMALLY PROPOSED BY DEPUTY IN CONGRESS OR BY EXECUTIVE. NEITHER HAS HAPPENED SO FAR.

3. SUBSEQUENTLY, ON MARCH 30, A DEPUTY OF THE MLN (CONSERVATIVE, SEMI-OPPOSITION), OTTO RENE FERNANDEZ OF ALTA VERAPAZ, FORMALLY PROPOSED TO CONGRESS A LAW WHICH ALSO WOULD ANNUL DECREE 41-71 AND SET UP SYSTEM OF FREE ASSIGNMENT OF CARGO. BILL WOULD IMPOST A 6 PERCENT TAX ON VALUE OF NET FREIGHT ON IMPORTS. (THE PREVIOUSLY CONSIDERED MARITIME TAX WAS TO HAVE BEEN 5 PERCENT, ORIGINALLY 3 PERCENT). AS IN THAT PREVIOUS DRAFT, CARGO OF CENTRAL AMERICAN ORIGIN AND IMPORTS OF OIL AND ITS DERIVATIVES WOULD BE EXCLUDED FROM TAXATION. ALSOAS IN THAT LAW, THE PROCEEDS WOULD GO TO CORFINA, GOVERNMENT INDUSTRIAL DEVELOPMENT BANK. HOWEVER, UNLIKE EARLIER DRAFT, REVENUE WOULD BE ALLOCATED 75 PERCENT FOR LOANS FOR NATIONAL RECONSTRUCTION FOLLOWING THE EARTHQUAKE AND ONLY THE REMAINING 25 PERCENT FOR DEVELOPMENT OF "NATIONAL MERCHWNT FLEET IN WHICH STATE IS MAJORITY SHARE-HOLDER" (FLOMERCA). THE BILL HAS BEEN REFERRED TO THE CONGRESSSIONAL COMMITTEE ON ECONOMY. IT IS NOT KNOWN WHEN IT WILL EMERGE FOR CONSIDERATION BY CONGRESS AS A WHOLE.

4. THE TAX PROPOSAL HAD BEEN REPORTED IN THE PRESS IN ALMOST COMPLETELY ERRONEOUS FASHION. THE PROCEEDS OF THE TAX WERE TO GO ENTIRELY TO RECONSTRUCTION; THE LEVY LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 GUATEM 02689 01 OF 02 070631Z

WAS TO BE JUST ON FOREIGN SHIPPING; THE TAX WAS TO BE APPLIED ON THE INORDINATE PROFIT FOREIGN LINES WERE MAKING HERE. THERE HAS SINCE BEEN NO CORRECTION OF THE ACCORD.

5. EMBASSY INVESTIGATED NATURE AND ORIGIN OF THIS BILL AND IN TIME IDENTIFIED FATHER OF IT. REPORTEDLY HE IS NOT FERNANDEZ BUT RATHER JOSE BANUS: UNITED BRANDS SHIPPING AGENT, HIGH OFFICIAL IN CHAMBER OF COMMERCE,

SPOKESMAN FOR THEM IN SHIPPING MATTERS, AND FOR MANY YEARS OPPONENT OF DECREE 41-71 AND ADVOCATE OF MARITIME TAX IN CONTEXT OF FREE COMPETITION FOR CARGO. BILL IS MARITIME TAX IN NEW, POLITICALLY ATTRACTIVE GUISE.

6. IN STRICTEST CONFIDENCE, BANUS HAS PROVIDED US WITH COPY OF TEXT OF DRAFT LAW AND HAS SUPPLIED EXPLANATION OF ITS GENESIS. CHAMBER OF COMMERCE HAD DESIGNATED ITS VICE PRESIDENT, RUDOLFO NEUTZE, TO SERVE AS REPRESENTATIVE ON NEW BOARD OF FLOMERCA AND ALSO ON GOVERNMENT COMMITTEE TO RECOMMEND CHANGES IN SHIPPING REGIME. CHAMBER - PARTICULARLY BANUS - EXPECTED NEUTZE TO PUSH FOR ANNULMENT OF DECREE 41-17 AND INSTITUTION OF MARITIME TAX. NEUTZE HOWEVER HAS BECOME MORE AND MORE A REPRESENTATIVE OF FLOMERCA ITSELF; MAY HAVE FOUND INTERESTING THE POOLING ARRANGEMENT WITH FLOMERCA PROPOSED BY DELTA (REF C); AND INCREASINGLY HAS FAILED TO FULFILL TASK HE WAS CHARGED WITH BY MOST ELEMENTS ON CHAMBER. IN RESPONSE TO QUERIES FROM BANUS AS TO WHY NEUTZE WAS NOT PUSHING FORWARD THE MARITIME TAX BILL, LATTER REPORTEDLY HAS BEEN GIVING SAME LINE AS GOG HAS TO EMBASSY:

A. DECREE 41-71 ORIGINATED IN CONGRESS. EXECUTIVE RELUCTANT TO CHANGE A CONGRESSIONAL BILL AND REPLACE IT WITH ONE OF ITS OWN.

B. DECREE WAS CREATION OF MLN. EXECUTIVE AT THIS TIME DID NOT WISH TO CROSS PARTY.

C. IF EXECUTIVE MOVED TO DO SO, IT WOULD BE INFERRED GOG AS ACTING UNDER US PRESSURE; THIS WAS AN INTOLERABLE POSITION POLITICALLY.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 GUATEM 02689 01 OF 02 070631Z

D. ANY PROPOSAL OF AN ALTERNATIVE REGIME WOULD BE ATTACKED BY PRIVATE LINES BENEFITTING FROM DECREE 41-71 AS WELL AS BY FLOMERCA.

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 GUATEM 02689 02 OF 02 061614Z

12

ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 CIAE-00 COME-00 DODE-00 DOTE-00

FMC-01 INR-07 NSAE-00 SAL-01 CG-00 DLOS-04 OES-06

STR-04 IGA-02 AID-05 TRSE-00 XMB-02 H-02 /048 W

----- 077639

R 061440Z APR 76

FM AMEMBASSY GUATEMALA

TO SECSTATE WASHDC 1137

LIMITED OFFICIAL USE SECTION 2 OF 2 GUATEMALA 2689

6. COGNIZANT OF NEUTZE "BETRAYAL" OF CHAMBER POSITION, OF STIFFENING ATTITUDE OF GOG TOWARD REFORM OF SHIPPING REGIME, AND OF SUSPENSION OF FMC DEADLINE LIFTING PRES-SURE ON GOG FROM US, BANUS TOOK INITIATIVE ON OWN TO WORK THROUGH THE OTHER CHANNEL OF CHANGE, WHICH IS CON- GRESS. TAKING ADVANTAGE OF EARTHQUAKE DISASTER AND NEED FOR FUNDS FOR RECONSTRUCTION (THIS WOULD BE SLOE TAX SO FAR PROPOSED TO GENERATE FUNDS FOR RECONSTRUCTION), BANUS PUT TOGETHER A SIMPLE BILL AND HAS SOLD IT TO MLN. HE SAID BILL HAS APPROVAL OF HIERARCHY OF PARTY UP THROUGH PARTY CHIEF SANDOVAL, VICE PRESIDENT OF GUATEMALA. MAR- TINEZ DEL ROSAL, STILL PRESIDENT OF FLOMERCA AND A FORMER MLN LEADER, MAY BE OPPOSED BUT HAS NOT MADE PEACE WITH ERSTWHILE PARTY; MLN NOT CONCERNED WHERE HE STANDS. BANUS SAID PID, MLN COALITION PARTNER, ALSO ON BOARD. CHRISTIAN DEMOCRATS MAY BE WILLING TO SUPPORT BILL IN VIEW OF CON- TRIBUTION TO RECONSTRUCTION EFFORT. ONLY PR UNCERTAIN, ACCORDING TO BANUS.

8. NEW BILL ORIGINATES IN CONGRESS AND IS APPARENT MLN CREATION AND SO UNDERCUTS GOG ARGUMENTS AGAINST PRESENTA- TION OF REFORM BILL A & B, PARA 6 ABOVE. NO INFERENCE CAN REASONABLY BE MADE THAT US PRESSURE HAS BEEN BROUGHT TO BEAR ON MLN. AT FIRST GLANCE, SOURCES OF OPPOSITION TO IT SEEM MINIMAL. GOVERNMENT SHOULD FINT IT DIFFI- LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 GUATEM 02689 02 OF 02 061614Z

CULT TO VETO A CONGRESS-PROPOSED TAX FOR RECONSTRUCTION WHICH IN PART FULFILLS PRESIDENT'S OWN REQUIREMENT OF SELF- HELP IN MOBILIZING RESOURCES. FLOMERCA WILL BENEFIT SOME FROM PROPOSED MEASURE (THOUGH NOT AS MUCH AS FROM PREVIOUS MARITIME TAX, ALL OF WHICH WAS TO GO TO IT); FURTHERMORE, IS WORKING OUT POOLING ARRANGEMENTS WITH

DELTA WHICH MAY BE PROFITABLE TO GUATEMALAN LINE AND POSSIBLY MAY FEEL IT CAN AFFAORD TO ACCEPT BILL. OF THE TWO PRIVATE SHIPPING LINES HERE, ARMAGUA MIGHT PREVIOUSLY HAVE BEEN CONSIDERED MAJOR THREAT TO PASSAGE OF MARITIME TAX BUT HAS ITSELF COME OUT WITH PROPOSAL TO ANNUL DECREE 41-71 (REF B); FURTHERMORE RECONSTRUCTION/MARITIME TAX NOT INCOMPATIBLE WITH UNCTAD CONFERENCE CONDUCT CODE FORMULA OF CARGO ASSIGNMENT WHICH ARMAGUA PUSHING. OPPOSITION MIGHT ARISE FROM CLAUDIO RIEDEL, WHO HAS AT LAST BEEN KICKED OFF FLOMERCA BOARD AND HAS SURFACED AS PRESIDENT AND GENERAL MANAGER OF THIRD LINE, LINEAS MARITIMAS GUATEMALTECAS, THOUGH HE COULD ULTIMATELY SWING OVER TO ARMAGUA POSITION.

9. BANUS' DEPICTION OF CHANCES OF PASSAGE OF HIS BILL MAY OVER OVER-SIMPLIFIED AND TOO OPTIMISTIC. OPPOSITION TO BILL COULD EMERGE FROM ANY SECTOR, ABETTED BY GENERAL LACK OF KNOWLEDGE OF SHIPPING SITUATION AND SUSCEPTIBILITY OF IT TO GROSS MISREPRESENTATION. BANUS/FERNANDEZ BILL HAS LONG WAY TO GO. BUT AT LEAST IT IS A START.

10. COPY OF TEXT BEING POUCHED ARA/CEN; PLEASE PROTECT, SINCE HAS NOT BEEN PUBLISHED IN PRESS OR EVERN DESCRIBED ACCURATELY. WILL REPORT FURTHER DEVELOPMENTS AS THEY OCCUR.
MELOY

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MARINE TRANSPORTATION, DISCRIMINATION, STEAMSHIP LINES, LEGISLATIVE BILLS, PROGRESS REPORTS
Control Number: n/a
Copy: SINGLE
Draft Date: 06 APR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: KelleyW0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976GUATEM02689
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760134-0959
From: GUATEMALA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760494/aaaadceh.tel
Line Count: 249
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: A.GUATEMALA 2276, B.GUATEMALA 2687 C. GUATEMALA 2688, 76 GUATEMALA 2276, 76 GUATEMALA 2687, 76 GUATEMALA 2688
Review Action: RELEASED, APPROVED
Review Authority: KelleyW0
Review Comment: n/a
Review Content Flags:
Review Date: 19 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <19 JUL 2004 by ElyME>; APPROVED <21 OCT 2004 by KelleyW0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: SHIPPING DISCRIMINATION: CALL IN CONGRESS FOR ANNULMENT OF DECREE 41-71
TAGS: EWWT, GT
To: SECSTATE WASHDC
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006